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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
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United States of America)
)
v.)
)
Jon Figliolini)Criminal No. 99-CR-10172-GAO
(28 USC § 2255)DISTRICT COURT
DISTRICT OF MASS**04 CV 12192 GAO**Motion Under 28 USC § 2255 To Vacate, Set Aside, Or Correct
Sentence By A Person In Federal Custody

1.) The Movant, Jon Figliolini, Prisoner Registration # 02372-049, is a federal inmate at the Old Colony Correctional Center, One Administration Rd., Bridgewater, Ma.02324.

2.) The judgement of conviction was entered in the United States District Court for the District of Massachusetts.

3.) The sentence Imposed was a term of 210 months imprisonment.

4.) The date of the judgement of conviction was entered June 27, 2001.

5.) The Movant was convicted, by guilty plea, of one count of possession of a schedule I controlled substance, (heroin), with the intent to distribute; in violation of 21 USC § 841(a)(1).

6.) The Movant appealed from the judgement of conviction to the First Circuit Court of Appeals.

7.) Upon the government's motion for summary disposition, the First Circuit Court of Appeals summarily affirmed the judgement of conviction establishing that the current record did not support the Movant's claim.

8.) The judgement of conviction was entered on January 10, 2003, and the date of Mandate was on January 31, 2003.

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9.) There were no other petitions, applications or motions with respect to this judgement, other than the direct appeal, previously filed in any federal court.

10.) Grounds For Relief:

a.) Ground one: The government, in bad-faith, negotiated the plea agreement with me;

In the plea agreement the government represented that they would recommend a three level downward departure for acceptance of responsibility knowing at sentencing they would not do so. The recommendation was based on all information known to the US Attornies Office at the time of the plea.

b.) Ground two: At the sentencing hearing the goverment breached the plea agreement;

The government represented in the plea agreement that it would recommend a three level downward departure for acceptance of responsibility, and at the sentecing hearing it argued that I should not get such a departure. The plea agreement was based on all information known to the US Attorney at the time of the plea.

c.) Ground three: Prosecutorial vindictiveness at the sentencing hearing;

The government argued against it's recommendation at the sentencing hearing to gain leverage against me to try to force me to cooperate in another investigation.

d.) Ground four: My counsel was ineffective;

My attorney(s) should have raised the issues of; plea bargining in bad-faith, breach of plea, and vindictiveness at the sentencing hearing.

e.) Ground five: The plea was not made vluntarily or intelligently;

The government negotiated the plea agreement in bad-faith and breached the plea agreement at sentencing. Therefore the plea was not made voluntarily or intelligently.

11.) The Following Attorney(s) were Assigned to represent me:

a.) At the Preliminary Hearing: Attorney R.J. Cinquegrana, Exchange Place, 53 State Street, Boston, Ma. 02109-2891.

b.) At the Arraignment & Plea: Attorney(s) R.J. Cinquegrana, Exchange Place, 53 States Street, Boston, Ma. 02109-2891, and Scott Kremer, Three School Street, Boston, Ma 02108.

c.) At the Sentencing Hearing: Attorney(s) R.J. Cinquegrana and Scott Kremer.

d.) On Appeal: Attorney Lois M. Farmer, 32 Main Street, PO BOX 398, Hyannis, Ma. 02601.

12.) The sentence resulted from only one count of a superseding information.

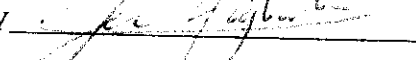
13.) After serving the sentence imposed by the judgement under attack, the Movant has a consecutive sentence of 63 months to serve. The 63 month sentence was imposed in the United States District Court for the District of Massachusetts, Chief Judge Young. The sentence was imposed on March 23, 2004. Depending on the out come of this proceeding the Movant may contemplate filing a petition attacking the judgement of conviction of this sentence.

WHEREFORE, Movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Under the Pains and Penalties of perjury the following is true and correct to the best of my ability and knowledge.

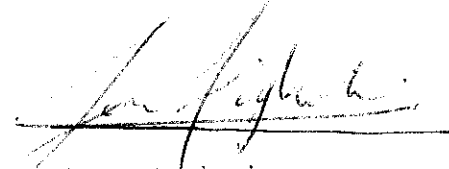
Signed on this 6th day of April, 2004.

Respectfully submitted,

by 
Jon Figliolini, Pro-se

CERTIFICATE OF SERVICE

I, Jon Figliolini, acting Pro-se, do hereby certify that one(1) original and three(3) copies have been served to the clerk of Court for the Honorable George A. O'Toole on this 6th day of April, 2004 by First Class Mail.


Jon Figliolini Pro-se